

Article - Health - General

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§24–508.

(a) Subject to subsection (c) of this section and except as provided in subsection (d) of this section, a person who violates a provision of this subtitle or a regulation adopted under § 24–507(a) of this subtitle:

(1) For a first violation, shall be issued a written reprimand by the Secretary or the Secretary’s designee;

(2) For a second violation, is subject to a civil penalty of \$100; and

(3) For each subsequent violation, is subject to a civil penalty not less than \$250.

(b) The Secretary may waive a penalty established under subsection (a) of this section, giving consideration to factors that include:

(1) The seriousness of the violation; and

(2) Any demonstrated good faith measures to comply with the provisions of this subtitle.

(c) (1) This subsection does not apply to an alleged violation of subsection (d) of this section.

(2) It is an affirmative defense to a complaint brought against a person for a violation of a provision of this subtitle or a regulation adopted under this subtitle that the person or an employee of the person:

(i) Posted a “No Smoking” sign as required under § 24–506 of this subtitle;

(ii) Removed all ashtrays and other smoking paraphernalia from all areas where smoking is prohibited; and

(iii) If the violation occurred in a bar, tavern, or restaurant:

1. Refused to seat or serve any individual who was smoking in a prohibited area; and

2. If the individual continued to smoke after an initial warning, asked the individual to leave the establishment.

(d) An employer who discharges or discriminates against an employee because that employee has made a complaint, has given information to the Department in accordance with this subtitle, has caused to be instituted or is about to cause to be instituted a proceeding under this subtitle, or has testified or is about to testify in a proceeding under this subtitle, shall be deemed in violation of this subtitle and shall be subject to a civil penalty of at least \$2,000 but not more than \$10,000 for each violation.

(e) (1) An employee may not:

(i) Make a groundless or malicious complaint under this subtitle to the Secretary or an authorized representative of the Secretary;

(ii) In bad faith, bring an action under this subtitle; or

(iii) In bad faith, testify in an action under this subtitle or a proceeding that relates to the subject of this subtitle.

(2) The Secretary may bring an action for injunctive relief and damages against a person who violates the provisions of paragraph (1) of this subsection.

(f) A penalty collected by the Secretary under this section shall be paid to the Cigarette Restitution Fund established under § 7–317 of the State Finance and Procurement Article.

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